



March 13, 2015

Heidi Jacobus
Robert Schmidt
Co-Chairmen

To: All US Senators

Jere Glover
Executive Director

Subject: Support the STRONG Patent Act and the TROL Act, not Anti-Patent Senate Bills Similar to HR 9

Larry Nannis
Treasurer

Kevin Burns
Greg Zacharias
New England
Regional Chairs

SBTC advocates for the 5,000 Small Business Innovation Research (SBIR) firms who receive a quarter of America's R&D 100 awards (the world's most valuable patents) and create 58% more patents than all universities combined. SBTC is a council of the National Small Business Association (NSBA), which has a much broader main street constituency.

Matt Oristano
Joseph Schwartz
Mid-Atlantic
Regional Chair

I am co-chair of the SBTC and separately the founder, chairman, and majority owner of five technology firms, an inventor, professional engineer, attorney, and patent attorney. I have thirty-one patents of my own and control about two hundred patents and applications through my companies. I am also an Angel investor and a member of several angel groups, and I was previously the Licensing Manager of a major engineering firm. I understand the invention ecosystem from multiple perspectives.

Ash Thakker
Southeast
Regional Chair

Mary Delahunty
Southwest
Regional Chair

I am gravely concerned about a letter initiated by Senator Warner asking Senators to support legislation similar to last year's House Bill HR 3309 (now HR 9) in the Senate. A similar bill was proposed last year by Senator Leahy and others were also proposed in the Senate.

Russ Farmer
Mountain
Regional Chair

Michael Browne
Pacific
Regional Chair

For the sake of America's future, please do not support such legislation, which will seriously harm small inventors and allow large, dominant companies to infringe small inventors' patents with impunity. The HR 9 and related Senate legislation does nothing to solve the Troll issue, but does make sure that small inventors can never afford to enforce their patents. It overturns 220 years of American growth by fundamentally changing the economy, from one that thrives on technical innovation to one that makes market dominance the primary criteria for continued success. The bill will substantially cut the potential value and job-creating incentives of new innovations. This will discourage innovation, slow the economy, and put American businesses at a disadvantage against foreign competition. Many leading organizations oppose HR 9, including the National Small Business Association, the Association of American Universities, the National Association of Patent Practitioners, the Patent Office Professional Association, and the Office of Advocacy of the US Small Business Administration. It is also opposed by over 2,000 small inventors, a number of large inventing businesses, and many others.

Roy Keller
State Liaison

Greg Zacharias
DOD Committee
Chair

Paul Donovan
Michael Squillante
NIH Committee
Co-Chairs

Ash Thakker
Phase III Committee
Chair

Russ Farmer
DCAA Committee
Chair

As an example, Virginia Gavin, owner of Appligent Inc., and a member of the NSBA, having received two demand letters and paid twice, was extremely anti-troll. Once she understood each and every provision of HR 3309, she stated, "There is NOTHING in this bill that will help me and several items that will harm my business."



HR 9 does not stop the large, well-funded Trolls. It hurts small inventing businesses. It allows large tech firms to infringe with impunity against small firms that cannot afford the risks associated with enforcing their patents. “Loser pays” means even the slightest chance of a small inventor losing a lawsuit will quell innovation, as it destroys the value of patents. Inventors must risk losing their entire business, as well as personal assets pledged as security, to enforce a patent. (This may well lead to the loss of their house, then their spouse and children (as what spouse will stick around a “crazy” inventor who has his home taken away by the court.) [It is strange that only inventors, and the people that fund them, are so heinous in this proposed America, that only they should lose the protection of the corporate veil.]

Patents and innovation are the lifeblood of our high standard of living. Patents advance and protect American manufacturing and American innovation. HR 9 would strike a terrible blow against future American jobs growth. HR 9 purports to attack trolls, but it will mainly decimate small entity innovation by creating a system where only multi-millionaires and big businesses can afford patents.

The Orwellian-labeled “patent reform” bills attack patent rights, cloud the title to patents, and help infringers avoid suits by raising the cost to enforce patents beyond the financial resources of most inventors and small businesses. Diminished patent enforcement capability for small business will reduce the creation of quality jobs in America.

HR 9 will also severely impact licensing in America. Licensees will become responsible for the court costs of the patent litigation winner should their licensor lose. The licensee’s business plans may be disclosed months or years prior to their market announcement as the courts reveal the existence of the license, and thus the licensee’s planned technology path to the competition, foreign and domestic.

For additional information on how HR 9 (or HR 3309) and similar legislation damages small business innovation, please see:

- <http://sbtc.org/wp-content/uploads/2015/01/SBTCPatentletter2pagecondensedversion.pdf>
- <http://www.nsba.biz/wp-content/uploads/2013/12/NSBA-Letter-in-Opposition-to-the-Innovation-Act-HR-3309.pdf>
- <http://www.nsba.biz/wp-content/uploads/2013/10/Patent-Coalition-Letter.pdf>
- <http://www.nsba.biz/?p=7273>
- <http://sbtc.org/wp-content/uploads/2014/02/Letter-to-Office-of-Advocacy-regarding-Patent-Reform-2-13-2014-final.pdf>
- http://sbtc.org/wp-content/uploads/2014/04/Advocacy-Letter-to-Senator-Landrieu-3_12_14.pdf
- sbtc.org/wp-content/uploads/2014/05/R.-Schmidt-written_testimony_HSBC.pdf

I also suggest that you view the materials at www.SavetheInventor.com and [#PatentsMatter](https://twitter.com/PatentsMatter). We believe that HR 9 and similar Senate proposed, Anti-Patent Legislation is bad for small inventors, bad for innovation, bad for America, and bad for job creation. I urge you not to sign the Warner letter.



Small inventors can, however, support legislation proposed in the TROL Act, <http://sbtc.org/wp-content/uploads/2014/07/SBTC-Letter-to-Speaker-Boehner-Supporting-TROL-ACT-7-22-14.pdf> and the new STRONG Patent Act of 2015, proposed by Senator Coons, <http://www.coons.senate.gov/patents>. This legislation will protect companies from trolls but will not hurt small inventors.

You should also be aware of certain inaccuracies in the Sen. Warner letter. Please see the letter from forty economists and law professors disputing the ‘facts’ cited in the Warner letter regarding the \$29B cost. It can be seen at: <<http://cpip.gmu.edu/wp-content/uploads/2015/03/Economists-Law-Profes-Letter-re-Patent-Reform.pdf>>. The letter expresses serious concern that Congress will restructure the U.S. patent system based on flawed, unreliable, and unrepresentative studies of patent litigation (e.g. Bessen & Meurer’s \$29 billion “study”), and it urges Congress to proceed with caution to ensure balanced, targeted, legislation.

Finally, patent lawsuit filings actually decreased in 2014, including a substantial decrease in lawsuits by patent licensing companies. This calls into question the need for further patent “reform” following passage of the America Invents Act (AIA) in 2011. Congress should demand reliable data on the American patent system and proceed with caution to address remaining problems without hurting small businesses and individual inventors.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert N. Schmidt", written in a cursive style.

Robert N. Schmidt, MS, MBA, JD
National Co-Chair, Small Business Technology Council